

TWO CONCEPTS OF INTERNATIONAL ORGANIZATION

JAN KLABBERS*

I

There is something of a debate going on about international organizations, with many (politicians as well as academics) aiming to think of ways to curtail the activities of those creatures.¹ And small wonder, with UN peacekeepers being routinely accused of involvement in sexual abuse and other violations of human rights;² with the Security Council being regarded as the vehicle for US grudges and priorities;³ with the World Bank and the IMF being seen to somehow affect human rights;⁴ with the WTO being viewed as the handmaiden of global capitalism;⁵ and with the EU's reluctance to take human rights and democracy seriously.⁶

* Professor of International Organizations Law, University of Helsinki. This is an expanded version of my inaugural lecture, delivered on 25 May 2005.

¹ See generally Jan Klabbbers, "Introduction", in Jan Klabbbers (ed.), *International Organisations* (Aldershot, Ashgate, The Library of Essays in International Law, 2005, forthcoming).

² See, e.g., Frédéric Mégret & Florian Hoffmann, "The UN as a Human Rights Violator? Some Reflections on the United Nations Changing Human Rights Responsibilities", 25 *Human Rights Quarterly* (2003) 314-342. Some of the underlying philosophical assumptions are usefully explored in Toni Erskine (ed.), *Can Institutions Have Responsibilities? Collective Moral Agency and International Relations* (Basingstoke, Palgrave, 2003).

³ See, e.g., José E. Alvarez, *International Organizations as Law-Makers* (Oxford, Oxford University Press, 2005), 199-217. The same author also underlines however that the Council has been a force for good by its stimulation of the development of human rights and humanitarian law (at 169-172).

⁴ Perhaps the most sophisticated study to date is Kerry Rittich, *Re-characterizing Restructuring: Law, Distribution and Gender in Market Reform* (The Hague, Martinus Nijhoff, 2002).

⁵ For a forceful critique along these lines, see Lori Wallach & Patrick Woodall, *WTO: Whose Trade Organization?* (New York, The New Press, 2004).

⁶ See, e.g., Päivi Leino-Sandberg, *Particularity as Universality: The Politics of Human Rights in the European Union* (doctoral thesis, Helsinki, Erik Castrén Institute, 2005).

Many of these attempts to curtail to activities of international organizations take the form of insisting, along models developed within states, on some kind of formal limits: where organizations exercise governmental tasks, their activities, just like those of governments under the Rule of Law, ought to be subject to standards.⁷ Those standards may be internal to the organization (limits to their mandates), or external (they are expected to adhere to international law and human rights standards⁸), and are often summarized under the heading of constitutionalism.

There is, quite obviously, much of value in this constitutionalism debate, but on occasion it would seem to miss the point. It is not just the case that constitutionalism involves, eventually, a set of paradoxes that undermine it in a fundamental way;⁹ it is also the case that constitutionalism may end up throwing out the baby with the bathwater, for it works, as so much of the law on international organizations does, on a flat, one-dimensional picture of organizations. It presupposes, in other words, that there is but a single concept of international organization, and aims its arrows at that concept. But in doing so it misses part of the picture: there is a second concept of international organization. This second concept has always been present but is becoming increasingly visible.

II

Historically, international organizations have often, perhaps always, predominantly been conceptualized as entities endowed with a single task: the management of common problems. Organizations, so the standard story goes, are really the extensions of states, doing those things that states cannot do on their own. As Bowett suggests, in the opening sentence of one of the classic textbooks on the law of international organizations:

The development of international organisation has been, in the main, a response to the evident need arising from international intercourse

⁷ A useful elaboration of the Rule of Law in domestic settings is Trevor Allan, *Constitutional Justice: A Liberal Theory of the Rule of Law* (Oxford, Oxford University Press, 2001).

⁸ See, e.g., Sigrun Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund* (London, Cavendish, 2001).

⁹ See Jan Klabbers, "Constitutionalism Lite", 1 *International Organizations Law Review* (2004) 31-58.